

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-169

April 26, 2002

PUBLIC UTILITIES COMMISSION
Inquiry Regarding Standard Offer Service
After March 1, 2005

NOTICE OF INQUIRY
AND REQUEST FOR
COMMENTS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

The Legislature has directed the Commission to

. . . begin an investigation to determine whether the continued availability of standard-offer service is necessary and in the public interest and, if so, how best to make such service available after March 1, 2005.
35-A M.R.S.A. § 3212(4).

The Commission must begin the investigation by August 1 of this year and submit a report, including any recommended actions, by December 1, 2002. Section 3212(4) sets forth certain questions the investigation must address and directs the Commission to also consider other issues that it determines to be appropriate. The purpose of this Request for Comments is to solicit input on what issues should be considered and to allow preliminary comments on the issues themselves. The Commission will solicit further input through a combination of written filings, formal conferences and informal discussions before finalizing its report to the Legislature.

II. BACKGROUND

Maine's electric restructuring statute requires the Commission to ensure that standard offer service is available to all electricity consumers. 35-A M.R.S.A. § 3212. As required by the statute, the Commission promulgated Chapter 301 of its rules to govern the terms of standard offer service and the structure of the competitive bidding process by which standard offer providers are obtained. The Commission has amended Chapter 301 on several occasions to adapt the rule to better address actual market conditions and participant behavior.

Starting in 1999, the Commission has conducted several competitive bid processes to acquire standard offer service. Although the initial bid processes did not yield retail suppliers for all customer classes, the recent processes have accomplished this goal. Thus, standard offer service is now provided to all customer classes of Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE) and

Maine Public Service Company (MPS) by retail suppliers chosen by the Commission through competitive bid processes.¹

By statute, standard offer service must be available until March 1, 2005. Originally, the statute directed the Commission to conduct this investigation during the first six months of 2004. However, the Legislature amended the law during its most recent session to require that the investigation occur in 2002 to allow sufficient time for it to fully consider the issues and for any changes to be implemented before March 1, 2005.

We initiate this inquiry, pursuant to Chapter 110, § 1201 of our rules, for the purpose of conducting the required investigation into standard offer service and preparing a report and set of recommendations for the Legislature as specified in 35-A M.R.S.A. § 3217. As a first step, the Commission will consider comments on the issues and questions set forth below, as well as other issues raised by commenters. The Commission requests that comments be filed in writing by May 17, 2002. A conference will be held on May 23, 2002 at 1:30 to allow the Commission to explore with commenters the issues that have been raised in the written comments. All interested persons that file comments or request to be placed on the service list in this docket will receive Commission documents issued throughout this proceeding.

III. ISSUES/QUESTIONS

(The italicized portions of A-D below are taken from the statute verbatim. The regular text portions have been added.)

*A. Are the goals of this chapter (35-A M.R.S.A. Chapter 32) best fulfilled if standard-offer service ceases altogether on March 1, 2005 or at a date certain after March 1, 2005?*²

- In considering Question A, the relevant goals of Chapter 32 must first be identified, a task made more challenging by the fact that the Legislature has not expressly stated the goals in Chapter 32. Considering the Chapter in its entirety, what goals are implied? For example, is the overarching goal that electricity be produced and supplied by a competitive market rather than as a regulated utility service? It is that all electricity consumers are served by a

¹ The consumer-owned utilities have procured standard offer service through their own processes.

² We assume that the question is whether service should be provided exclusively by non-standard offer competitive electricity providers (CEPs), such as through contractual arrangements with individual customers or aggregated groups. In other words, we assume the question does not contemplate that standard offer service would be replaced by regulated utility-provided service.

CEP of their choosing, that consumers receive electricity in the most efficient manner, or that electricity prices for all consumers are as low as possible?

The answer to Question A may be different depending on what goal or goals are considered by statute to be paramount. Commenters should clearly state the paramount goals they believe to have been set by the Legislature and the citations to Chapter 32 that express or imply these goals.

- In light of our experience to date, should these legislative goals be changed?
- Should Question A be answered differently for different groups of customers, e.g. residential, commercial, industrial? What factors are relevant in distinguishing among customer groups?
- If standard offer service were to cease altogether, would there still have to be some type of default service? If not, how would a customer (and its load) that did not have a CEP be treated? If it were necessary to have some type of default service, how should it differ from current standard offer service?
- If standard offer service ceased altogether, by what means would the Legislature or the Commission ensure that there were a sufficient number of CEPs in the Maine market so that all customers in the State would be able to obtain electricity at reasonable prices?

B. Should opportunities for retail aggregators be changed to ensure greater participation in competitive markets by residential and small commercial customers, beginning March 1, 2005?

- Please specify in what way(s) the statute, Commission rules and existing practice should change to ensure greater opportunities for entities to market to residential and small commercial customers. Please also indicate whether the change(s) should occur prior to March 1, 2005.
- Is it sufficient to consider this issue with respect to aggregators without also considering it with respect to suppliers? Please explain why or why not.

C. Beginning March 1, 2005, should any standard-offer provider selected by the commission pursuant to subsection 2 be required to offer at least one standard offer service that is composed entirely of renewable resources as defined in section 3210?

- What specific goals of Chapter 32 or other policy objectives should a renewable standard offer be designed to further? For example, would it be sufficient if the product existed (and was prominent) as an option for customers, or must there be a significant number of customers actually receiving renewable standard offer service?
- How should this product be priced?

- In what sense (if any) would the renewable standard offer be a default service?
- What are the advantages of having the same provider for both renewable and “standard” standard offer service? Conversely, are there reasons the providers should be different entities?
- What effect would the existence of renewable standard offer service have on market opportunities for other green suppliers? Should this be a consideration in determining whether to have a renewable standard offer service?

D. Should this chapter be amended to enable aggregators, beginning March 1, 2005, automatically to receive by contract, for a term designated in that contract, the designation as competitive electricity provider for all the electric accounts in a given municipality if:

- (1) That municipality adopts a “negative-option” form of municipal aggregation, following notice and opportunity for hearing, by means of a recorded vote of the municipal officers or the appropriate governing body; and*
- (2) All customers in that municipality reserve the right to leave the municipal aggregation and designate a different provider, in writing, within a time period established by legislative enactment?*

- Should such an amendment be adopted sooner than March 1, 2005?
- Provision (2) above could be read to limit a customer’s rights to choose a CEP. In the context of municipal aggregation, what are the benefits and detriments of any such limitations?
- Could this (or a similar) form of municipal aggregation affect standard offer prices, particularly for small customers, by injecting a greater degree of volume risk into the class? If so, should such an effect be considered?
- In what respects would this type of municipal aggregation service resemble standard offer service? How would it differ?
- Assuming standard offer service continues after March 1, 2005, what are the benefits to customers of also having “negative-option” municipal aggregation?
- Should customers whose municipality adopts this approach be allowed to choose standard offer service, or should they be foreclosed from doing so? What are the benefits and detriments of the alternatives?

E. If standard offer service did not cease altogether on March 1, 2005 but, instead, was redesigned specifically to move customers into the retail CEP market, what changes or new models should be considered?

- Should we keep the same basic model but set prices above-market, i.e. use “adders”?
 - o If adders are used, how should their magnitude be determined? How should the revenue from adders be treated, e.g., as a reduction to stranded costs?
- Should we introduce a menu of standard offer options (as is under consideration in Rhode Island) to familiarize customers with choice?
- Should we directly assign customers among multiple suppliers?
- Are there other approaches that should be taken?
- Should the basic design of standard offer service after March 1, 2005 differ among customer classes? If so, how?
- Should any of these changes occur before March 1, 2005?

F. If standard offer service were not redesigned specifically to move customers into the retail CEP market as discussed in section E, above, what statutory and rule changes should be made in any event and when should they be made?

- For residential customers? Small commercial? Medium commercial/industrial? Large industrial?
- Please describe the detriments to small customers if the status quo (i.e., market based standard offer service, little other competitive activity) continued indefinitely.
- Relative to the status quo, would there be any benefits from eliminating retail choice as an option for small customers?

G. In addition to the above items, please identify and comment on any other issues that the Commission should consider in this Inquiry.

Dated at Augusta, Maine, this 26th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond

COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.